

§ 1-609. Rights of the parties to qui tam actions.

(a) If the State proceeds with an action under G.S. 1-608(b), it shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the qui tam plaintiff. The qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations set forth in subsections (b) through (e) of this section.

(b) The State may dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the State of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity for a hearing on the motion.

(c) The State may settle the action with the defendant, notwithstanding the objections of the qui tam plaintiff, if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be heard in camera.

(d) Upon a showing by the State that the qui tam plaintiff's unrestricted participation during the course of the litigation would interfere with or unduly delay the State's prosecution of the case or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as any of the following:

- (1) Limiting the number of witnesses the qui tam plaintiff may call.
- (2) Limiting the length of the testimony of those witnesses.
- (3) Limiting the qui tam plaintiff's cross-examination of witnesses.
- (4) Otherwise limiting the participation by the qui tam plaintiff in the litigation.

(e) Upon a showing by the defendant that the qui tam plaintiff's unrestricted participation during the course of the litigation would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the qui tam plaintiff in the litigation.

(f) If the State elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the State's expense. When a qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the State to intervene at a later date upon a showing of good cause.

(g) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the qui tam plaintiff would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 120 days. Such a showing shall be conducted in camera. The court may extend the 120-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigations or proceedings.

(h) Notwithstanding the provisions of G.S. 1-608(b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the qui tam plaintiff shall have the same rights in that proceeding as the qui tam plaintiff would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the State, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review. (2009-554, s. 1.)